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Attorney Docket No. 26H-006

REMARKS

Claims 1-5 were pending. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 1-5 stand newly rejected under 35 USC 103(a) as being allegedly unpatentable over Anhegger, et al., U.S. Patent No. 5,031,302 (hereinafter "Anhegger"), in view of Bovellan, et al., U.S. Patent No. 6,033,006 (hereinafter "Bovellan") and further in view of Goto, et al., U.S. Patent No. 4,573,604 (hereinafter "Goto"). The applicants respectfully request that this rejection be withdrawn for the following reasons.

Applicants first submit that the Examiner has provided insufficient evidence of a suggestion or motivation contained in the references, as required, that would support the proposition that one of ordinary skill in the art would make the combination. Applicants submit that Anhegger fails to teach or suggest a flange as asserted by the examiner. The applicants clearly show, for example, a flange 210 in Figure 1 of the drawings. However, a close review of Anhegger fails to reveal a flange.

Instead, Anhegger is drawn to an insert 3 into a filler pipe 1. In Bovellan, a filler end 4 of a fuel pipe 3 reaches through a collar 20 to be engaged with locking means 21 (see, e.g. col 2, lines 8 and 39-41) by operation of the shape of filler end 4. It is uncertain whether such engagement is possible in Anhegger giving the shape of the filler pipe 1 as best can be ascertained from the drawings. However Anhegger is notably silent regarding how the filler pipe 1 is fixed to a vehicle. Therefore, applicants submit that since Anhegger fails to teach a flange, and since the operation of the locking means 21 would be rendered inoperable when presented with the filler pipe 1 of Bovellan, one of ordinary skill in the art would not combine the references. Even if the references are properly combinable, which applicants contend they are

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not, the combination still would fail to teach or suggest the claimed configuration because no flange is taught or suggested in either reference. In adding a third reference to the applied art combination in an attempt to read the features of the claims on the prior art, a fair assumption can be made that the Examiner is using impermissible hindsight reasoning to add Goto to the applied art combination, which, for the reasons already set forth, is improperly motivated. Notwithstanding improper hindsight, the Examiner must provide further evidence that one of ordinary skill in the art would be guided by teachings contained in the references to add Goto to the combination of Anhegger and Bovellan to supply the remaining missing feature, e.g. the claimed gasket ring.

Despite the lack of evidence of a motivation to combine the references, the applicants have amended claim 1 herein to better distinguish over the prior art. Because of the limitation that the sealing member is disposed between the inner peripheral surface of the neck body and the outer peripheral surface of the retainer, and disposed closer to the fuel tank than the flange of the neck body, the sealing property between the neck body and the retainer can be maintained even if a vehicle crashes. During a vehicle crash, great impact is applied on the neck body. Since the flange is fixed to the vehicle, the stress due to the crash of the vehicle is concentrated near the flange, e.g. near the connecting portion of the neck body and the flange. Because of such concentration of the stress, breaking or crack occurs near the flange. In such a case, fuel can flow into the portion between the retainer and the neck body. However in accordance with the present invention, the sealing member which is disposed closer to the fuel tank than the flange prevents fuel from being released to the outside.

As noted above, Anhegger and thus the applied art combination fails to teach or suggest a flange for fixing a neck body to a vehicle. Bovellan, at best, describes a collar 20, but the collar 20 is formed separately from fuel pipe 3. Therefore, even if Anhegger and Bovellan are

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combined, it is impossible to achieve a flange which is formed integrally with the neck body as claimed.

Anhegger further describes a construction in which a sealing member is disposed between a filler neck body and a retainer. However it should be noted that Anhegger relates to an invention concerning a sealing member. Anhegger fails to teach that a filler neck-body has a flange. Bovellan at best describes having a metal retainer for screwing a cap (grip 19) and fails to teach a construction in which a sealing member is disposed between a filler neck body and a retainer. Accordingly, even if a construction could be achieved in a combination of Anhegger and Bovellan in which a sealing member is disposed between a filler neck body having a flange and a retainer, it would be impossible to achieve a construction in which a sealing member is disposed closer to a fuel tank than a flange.

Applicants emphasize that in Bovellan, as noted above, collar 20 is engaged with the neck body 3 by a locking means 21. Thus, in accordance with the teachings of Bovellan, breaking or crack doesn't occur near a flange, particularly since applicants do not consider that a flange is taught in the applied art combination. Even if Anhegger and Bovellan are combined, it would be impossible to achieve a construction in which a sealing member is disposed closer to a fuel tank than a flange.

Applicants further importantly note that Goto, at best, describes a flange 50. However, the flange 50 is formed separately from a neck body and is separated from contact with any portion of a filler or neck by a ring 48. Thus, even if Goto is properly included in the applied art combination, it would be impossible to arrive at a teaching of a flange which is formed integrally with a neck body. Applicants further note that Goto describes having free end 28 and insert 44, but fails to teach or suggest a construction in which a sealing member as shown in the

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embodiment of the present invention is disposed between a neck body and a retainer, assuming that free end 28 and insert 44 could amount to the claimed neck body and retainer. Accordingly the applied art combination even if proper fails to teach or suggest a construction in which a sealing member is disposed between a filler neck body and a retainer.

Goto further describes a seal 36 that is disposed at an outer end of annular bracket 30 apart from a vehicle, e.g. vehicle body outer panel 34. Therefore in the configuration of Goto breaking or cracking does not occur near any flange. Accordingly, it is impossible to achieve a construction in which a sealing member is disposed at any specific position between a retainer and a neck body.

Accordingly, for at least the reasons as described above, a prima facie case of obviousness has not properly been established in that the applied art combination has not been properly supported with evidence of motivation and still fails to teach or suggest all the claimed features such as for example that a flange is formed integrally with a neck body, and that a sealing member is disposed between a retainer and the neck body, and is disposed closer to a fuel tank than a flange of the neck body.

It is respectfully requested therefore that the rejection of independent claims 1 and 5 be reconsidered and withdrawn. Claims 2-4, by virtue of depending from claim 1 are allowable for at least the reason set forth herein above with regard to claim 1. It is respectfully requested therefore that the rejection of claims 2-4 be reconsidered and withdrawn.

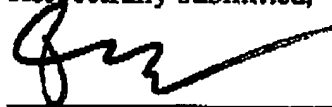
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In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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